

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ADA KITSIS,

Plaintiff,

-against-

HOME ATTENDANT VENDOR  
AGENCY, INC.,

**MEMORANDUM AND ORDER**

Case No. 15-CV-6654-FB-RLM

Defendant.

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**BLOCK, Senior District Judge:**

On December 12, 2016, Magistrate Judge Mann issued a Report and Recommendation (“R&R”) recommending that this action be dismissed without prejudice for failure to effect timely service. The R&R advised that “[a]ny objection to this Report and Recommendation must be filed . . . on or before December 27, 2016,” and that “[f]ailure to file objections in a timely manner may waive a right to appeal the District Court order.” R&R at 8. The R&R was electronically served the same day.

The following day, the plaintiff asked Magistrate Judge Mann to reconsider her recommendation. The magistrate judge denied the request, but extended the time to file objections with the Court to January 3, 2017. To date, no objections have been filed.

Where clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court, however, will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

No error, plain or otherwise, appears on the face of the R&R. Therefore, the Court adopts it without *de novo* review. The Clerk shall dismiss this action without prejudice.

**SO ORDERED.**

/S/ Frederic Block\_\_\_\_\_  
FREDERIC BLOCK  
Senior United States District Judge

Brooklyn, New York  
February 10, 2017